IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HONOURBALE SRI JUSTICE N.V.RAMANA

W.P. No. 22506 OF 2001

Dated : February 22, 2006

Between:

M.Chandra Mohan

Petitioner

AND

National Thermal Power Corporation Limited,

Rep. by its Senior Manager (P & A)

Simhadri Thermal Power Project,

Simhadri, Visakhapatnam and another.

Respondents

THE HONOURBALE SRI JUSTICE N.V. RAMANA

W.P. No. 22506 OF 2001

ORAL ORDER:

Seeking a writ of mandamus declaring the action of the second respondent-District Employment Officer, Technical, Visakhapatnam, in not sponsoring the name of the petitioner for test and interview to the post of Diploma Mechanical Trainee in the first respondent Organisation, as illegal and arbitrary and to consequently direct the respondents to permit the petitioners to appear for the test and interview for the post of Diploma Mechanical Trainee to be held on 4.11.2001 or any other subsequent date and to appoint him to the said post based on his performance, the petitioner filed this writ petition.

The petitioner, who belongs to BC – D group is a Diploma Holder in Mechanical Engineering and registered with the 2nd respondent Employment Exchange, in the year 1993. While so, on the requisition of first respondent for Diploma Mechanical Trainees, the second respondent sponsored certain candidates, who are junior to the petitioner. It is further his case that since his representation to both the respondents went futile, he came up with the present writ petition.

While admitting the writ petition on 31.10.2001, this court permitted the petitioner to appear for the test and interview for the post of Diploma Mechanical Trainee, which was subsequently made absolute. In pursuance of the said interim order, it is stated that the petitioner has appeared for the test and interview.

The contention of the learned counsel for the petitioner is two fold. He firstly contends that fixing 70% marks, as the minimum eligibility criteria in Diploma course is discriminatory, inasmuch as the first respondent has prescribed only 60% for other category of employment, viz., Assistant Chemists. He nextly contends that since the first respondent has formulated a scheme for providing employment to the persons whose lands were acquired for establishment of the thermal project, the petitioner being a land oustee and belongs to BC-D, is entitled for appointment, under the said scheme.

The second respondent filed counter affidavit stating that since the petitioner had completed 30 years by 15.7.2000 and since the second respondent prescribed the age as only 27 years for the said post, his name could not be sponsored. However, by virtue of the interim orders passed by this court and since the petitioner is a land oustee which entitles him for age relaxation of five years, the petitioner was permitted to appear for the test and interview and, therefore, nothing survives in the writ petition and is liable to be dismissed. But, however, I shall proceed to examine the contentions of the learned counsel for the petitioner.

As rightly contended by the learned counsel for the first respondent prescribing minimum educational qualifications, percentage of marks and experience, etc. are the exclusive domain of the Management and the petitioner has no right to assail the same. The fact that petitioner is a land oustee, by itself does not confer any right on him either to assail prescription of minimum educational qualifications, percentage of marks or age or to claim exemption thereof. Therefore, this contention of the learned counsel for the petitioner does not merit consideration.

Insofar as the contention of the learned counsel for the petitioner that the petitioner, being a land oustee, is entitled to a preferential treatment in the appointment, is concerned, the law is well settled. The Apex Court in *Butu Prasad Kumbhar and others Vs. Steel Authority of India Limited and others ()* has categorically held as under:

> *"…The petitioners or their ancestors were not deprived of their land without following the procedure establish by law. Their land was taken under the Land Acquisition Act. They were paid compensation for it. Therefore, the challenge raised on violation of Article 21 is devoid of any merit. Even otherwise, the obligation of the State to ensure that no citizen is deprived of his livelihood does not extend to providing employment to every member of each family displaced in consequence of acquisition of land. Even if the Government or the steel plant had not offered any employment to any person it would not have resulted in violation of any fundamental right……. The claim of the petitioners that unless*

each adult member is given employment or the future generation is ensured of a preferential claim it would be arbitrary or contrary to the constitutional guarantee is indeed stretching Article 21 without any regard to its scope and ambit as explained by the Supreme Court…"

Relying on the above decision, the Calcutta High Court in a decision *Seikh Aminuddin and another Vs. Indian Oil Corporation Limited and others ()* has held that the rehabilitation package offering job to one member of a family whose land has been acquired and the agreement entered into between the State Government and the Indian Oil Corporation in that regard, is not enforceable being contrary to Article 14 and 16 of the Constitution.

The counter filed by the first respondent manifestly makes it clear that a State Level Negotiation Committee was constituted with the representatives of the respondent company, Government Officials, Revenue Officials and the representatives of the affected parties, which fixed the price of the acquired land at Rs.2.25 lakhs per acre, which was accordingly paid with a specific understanding that there is no commitment or liability for the respondent company whatsoever including remedy of employment. Having accepted the terms of negotiations and the quantum of compensation determined at the option of the land owners, the petitioner is estopped from claiming preferential treatment in appointments. The claim of preferential treatment in appointment for the land oustee is not enforceable in law inasmuch as such an appointment is against public policy apart from the fact that it is a settled principle of law that the courts generally do not issue directions to take a particular incumbent for a particular post. Apart from this, by virtue of the interim orders, the petitioner has appeared for the test and interview. Having regard to the settled principles of law and the fact that the petitioner did not chose to seek amendment of the prayer, having appeared for the test and interview, I am of the considered view that the writ petition lacks merit, viewed for any angle, and is liable to be dismissed. Consequently, the writ petition fails and is accordingly dismissed. No order as to costs.

N.V.RAMANA, J.

February 22, 2006.

MAS.